

Appellant had a prior back injury on May 29, 2010 which OWCP had accepted for lumbar strain. Her prior back injury was assigned OWCP File No. xxxxxx398. Appellant's two claims have not been combined.

By decision dated April 24, 2013, OWCP expanded the acceptance of appellant's current claim to include the additional condition of displacement of lumbar intervertebral disc without myelopathy.¹

On April 27, 2017 appellant filed a claim for wage-loss compensation (Form CA-7) alleging disability from work from April 6 through 14, 2017. She indicated that due to her medical condition she worked five hours a day and used three hours of leave without pay for the period claimed.

In a development letter dated May 1, 2017, OWCP noted her claim for wage-loss compensation and indicated that she instead should file a claim for a recurrence of disability (Form CA-2a).

On May 15, 2017 appellant filed a claim for recurrence of disability alleging that on April 5, 2017 she sought medical treatment and lost time from work due to her March 17, 2011 employment injury. She also noted that she had experienced constant back pain since her March 17, 2011 injury and that bending and standing too long aggravated her condition.

By decision dated June 20, 2017, OWCP denied appellant's recurrence claim, noting that she described a new injury due to an intervening factor on her claim form. It directed her to file a new traumatic injury claim regarding her allegations of constant bending and standing at work resulting in her current lumbar spine and back condition.

Appellant requested reconsideration of OWCP's June 20, 2017 decision on August 7, 2017.

By decision dated August 16, 2017, OWCP reviewed the merits of appellant's claim and found that she had not met her burden of proof to establish a recurrence of disability commencing April 26, 2017 due to her accepted March 17, 2011 employment injury. It found that appellant had not established either a material change in her accepted conditions or the withdrawal of a limited-duty assignment.

The Board has duly considered the matter and notes that the case is not in posture for decision. OWCP procedures provide for combining case files where correct adjudication depends on cross-referencing between files. For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same body part, doubling is required.²

Herein, appellant initially filed and OWCP accepted a May 29, 2010 lumbar spine injury, in OWCP File No. xxxxxx398. OWCP subsequently accepted a traumatic injury claim due to a March 17, 2011 work incident, resulting in lumbar and thoracic strains as well as lumbar

¹ OWCP did not accept diagnoses of L4-5 radiculopathy as identified by a second opinion physician, Dr. William L. Lehman, Jr., a Board-certified orthopedic surgeon.

² *M.W.*, Docket No. 17-0743 (issued January 23, 2018); *P.G.*, Docket No. 15-1806 (issued October 4, 2016); Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

intervertebral disc without myelopathy, in OWCP File No. xxxxxx687. Appellant filed a claim for compensation for lost work hours and was instructed to file a recurrence of disability claim for the March 17, 2011 traumatic injury. Her recurrence claim was denied and she was instructed to file a new traumatic injury claim. OWCP failed to properly combine the present case record with the record of the May 29, 2010 employment injury, which appellant has noted was her first work-related lumbar spine injury causing disability.

The case will be remanded to OWCP to combine OWCP File Nos. xxxxxx687 and xxxxxx398 and determine whether appellant sustained a recurrence of disability from her currently accepted conditions or a new employment injury. Following this and such other development as deemed necessary, OWCP shall issue a *de novo* merit decision on appellant's claim for disability. Accordingly,

IT IS HEREBY ORDERED THAT the August 16, 2017 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further action consistent with this order of the Board.

Issued: May 4, 2018
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board